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1850, to discharge minors on the application of a parent not domiciled in the United States

The act of January 20, 1813, that of the 10th of December, 1814, and that of 28th December, 1850, are the only statutes cited and commented upon by him. "Taking the acts of 1813, 1814, and 1850 together, as being in *pari materia*, the proper conclusion seems to be that the minor must have a parent or guardian, whose authority was recognized as valid by the law of the place, who had authority to consent or forbid, and to whom the recruiting officer might have applied within the United States for his assent in writing to the proposed enlistment.

I have examined with great care, as well as respect, the opinion of Mr. Justice Hilton, in Phelan's case, 9 Abbott, 286, and which has been followed by Justice Brady in the case of Johnston, and, as I am informed, by some other judges. For the reasons which are before stated, I am compelled to come to a different conclusion from that of the learned judges.

The recruit detained must be discharged.

*Jonas B. Phillips* for petitioner.

*Theodore Hinsdale* for the United States.

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#### NOTICES OF NEW BOOKS.

DECISIONS OF HON. PELEG SPRAGUE, IN ADMIRALTY AND MARITIME CAUSES, in the District Court of the United States for the District of Massachusetts, 1841—1861. Philadelphia: T. & J. W. Johnson & Co., 1861.

Mr. Parker and Mr. Adams, who, it seems share the editorship of this volume, though their names do not appear on the title page, have done a good office in collecting the decisions of Judge Sprague. It would not have been well if the labors of twenty years, pursued with such courageous devotion under the pressure of a calamity which to most men paralyzes effort and closes the avenues of knowledge, had perished without some memorial of their worth. The deprivation of sight or of its efficient use, is to any professional man a sore affliction; but to a lawyer, perhaps most of all. His eyes are to him, as it were, his servants of all work; and without their active aid, indeed, the performance of the duties of a judge is almost impossible. The search for precedents, the examination of records, the analysis of evidence, require an immediate and constant

exercise of the faculties, which can scarcely be supplied by the ministrations of others, however willing or intelligent. The strain on the attention and the stretch of memory, which this vicarious mode of study exacts, must be really prodigious. The pleadings and proofs in admiralty cases are often voluminous, and usually conflicting; and the arguments of the bar are illustrated by authorities copious and truly *undique collecta*. It is difficult to understand, though not to admire, the temper of mind that can listen with patient resolution to the recitation of the monotonous but perplexed drama, and retire upon itself to evolve in darkness out of the unshapen material a lucid coherent statement, and an argument strong enough to command respect even where it fails to secure assent.

To Judge Sprague's personal character, and to the manful and conscientious manner in which he has so long discharged his duties under a heavy burthen, a tribute such as the task which has been performed here, was justly due. But his decisions do not need any adventitious assistance to recommend them to professional consideration. They have always stood in the first rank among those of their peculiar class; and it has long been a source of regret that they had not found some permanent record.

The cases reported in this volume are of much interest, and of varied importance. Many branches of maritime law are reviewed and illustrated. In *Crocker vs. Jackson*, p. 141, and *A box of bullion*, p. 57, the right to deviate in order to assist a vessel in distress is discussed. The *Cynosure*, p. 88, decides the laws in Southern States for the imprisonment of negro sailors, to be unconstitutional. In the *Massasoit*, p. 97, we find the claim of seamen to wages out of a remnant affirmed, though no freight had been carried. The case of *Hansom vs. Rowell*, p. 117, was a curious one indeed. There a seaman startled out of his sleep at night by a collision, sprang on the other vessel by a sudden impulse, believing his own to be sinking, and could not get back; and it was held that this was not a desertion. The *Holder Borden*, p. 144, while it does not decide any important point of law, is worthy of perusal as a remarkable story of adventure, such as De Foe would have delighted in. *Taber vs. Jenny*, p. 315, established the existence of a special property in the carcass of a whale, anchored and left with the marks of appropriation in the ocean. The liability of the owners of a steam tug, for a collision, where the tow is exclusively under her government, is asserted in the *R. B. Forbes*, p. 328. In the *Gazelle*, p. 378, the important and vexed question of the discharge of the lien of wages by a sale on execution of the ship, is de-

cided against the discharge. The *Salem's cargo*, p. 389, denies to the master of a vessel the power to discharge cargo from the lien of the freight due by a charter party, by signing special bills of lading. In the *Triumph*, p. 428, as in the *Blaireau*, the right of seamen to become salvors, under special circumstances, is admitted. That noted and shameless vagrant, the yacht *Wanderer*, leaves her trace in jurisprudence, by occasioning the decision at p. 505, that a vessel may be forfeited by engaging in an unlawful trade, though it be by the pure act of the master, without the authority or knowledge of the owner. The *May Queen*, p. 522, gives an admiralty lien for towage service to a vessel employed exclusively within harbor limits. And finally, as all our thoughts now, however usefully employed, at last revert to the one absorbing topic of the time, the volume closes with two charges of Judge Sprague, one on the fugitive slave law, the other on the duties of the citizens during the present rebellion. The chasm of thought which lies between these two subjects of judicial deliverance is a history in itself.

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PENNSYLVANIA STATE REPORTS, VOL. XXXVII: Comprising Cases adjudged in the Supreme Court of Pennsylvania. By ROBERT E. WRIGHT, State Reporter, Vol. I. Containing Cases decided in May and October Terms, 1860, and in January Term, 1861. Philadelphia: Kay & Brother, Law Booksellers, Publishers, and Importers, No. 19 South Sixth Street, East Side. 1861.

The first volume of the new Reporter for Pennsylvania is before us. It is neither a grateful nor an easy task to report the decisions of any legal tribunal. In the early days of reporting, the reporter always was in Court, and heard and noted the proceedings at the time: he was also a stipendiary of the government, and had no other or further interest in his reports than to have them accurate and satisfactory to his brethren of the Bar. It may be doubted, whether we have improved on the wisdom of our fathers. The reporters of modern times (we make the remark generally, and do not mean to apply it to the present reporter,) have a deep pecuniary interest in swelling the number of pages and volumes of their labors, and the booksellers continually tax the profession for comparatively useless books of reports. By legislation in some States, all cases determined by the Superior Court must be reported; by the legislation of other States, as our own for instance, only such cases as are marked by the judges "to be reported," find their way into the regular State reports.

It is certainly much to be desired that careful and well prepared reports